

110TH CONGRESS
2D SESSION

H. R. 6604

To amend the Commodity Exchange Act to bring greater transparency and accountability to commodity markets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2008

Mr. PETERSON of Minnesota (for himself and Mr. ETHERIDGE) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Commodity Exchange Act to bring greater transparency and accountability to commodity markets, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Commodity Markets
5 Transparency and Accountability Act of 2008”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Definition of energy commodity.

Sec. 4. Speculative limits and transparency of off-shore trading.

- Sec. 5. Disaggregation of index funds and other data in energy and agriculture markets.
- Sec. 6. Detailed reporting from index traders and swap dealers.
- Sec. 7. Transparency and recordkeeping authorities.
- Sec. 8. Trading limits to prevent excessive speculation.
- Sec. 9. Modifications to core principles applicable to position limits for contracts in agricultural and energy commodities.
- Sec. 10. CFTC Administration.
- Sec. 11. Review of prior actions.
- Sec. 12. Review of over-the-counter markets.
- Sec. 13. Studies; reports.
- Sec. 14. Over-the-counter authority.
- Sec. 15. Expedited process.

1 **SEC. 3. DEFINITION OF ENERGY COMMODITY.**

2 (a) DEFINITION OF ENERGY COMMODITY.—Section
 3 1a of the Commodity Exchange Act (7 U.S.C. 1a) is
 4 amended—

5 (1) by redesignating paragraphs (13) through
 6 (34) as paragraphs (14) through (35), respectively;
 7 and

8 (2) by inserting after paragraph (12) the fol-
 9 lowing:

10 “(13) ENERGY COMMODITY.—The term ‘energy
 11 commodity’ means—

12 “(A) coal;

13 “(B) crude oil, gasoline, diesel fuel, jet
 14 fuel, heating oil, and propane;

15 “(C) electricity;

16 “(D) natural gas; and

17 “(E) any other substance that is used as
 18 a source of energy, as the Commission, in its
 19 discretion, deems appropriate.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 2(c)(2)(B)(i)(II)(cc) of the Com-
3 modity Exchange Act (7 U.S.C.
4 2(c)(2)(B)(i)(II)(cc)) is amended—

5 (A) in subitem (AA), by striking “section
6 1a(20)” and inserting “section 1a(21)”; and

7 (B) in subitem (BB), by striking “section
8 1a(20)” and inserting “section 1a(21)”.

9 (2) Section 13106(b)(1) of the Food, Conserva-
10 tion, and Energy Act of 2008 is amended by striking
11 “section 1a(32)” and inserting “section 1a”.

12 (3) Section 402 of the Legal Certainty for
13 Bank Products Act of 2000 (7 U.S.C. 27) is amend-
14 ed—

15 (A) in subsection (a)(7), by striking “sec-
16 tion 1a(20)” and inserting “section 1a”; and

17 (B) in subsection (d)—

18 (i) in paragraph (1)(B), by striking
19 “section 1a(33)” and inserting “section
20 1a”; and

21 (ii) in paragraph (2)(D), by striking
22 “section 1a(13)” and inserting “section
23 1a”.

1 **SEC. 4. SPECULATIVE LIMITS AND TRANSPARENCY OF OFF-**
2 **SHORE TRADING.**

3 (a) IN GENERAL.—Section 4 of the Commodity Ex-
4 change Act (7 U.S.C. 6) is amended by adding at the end
5 the following:

6 “(e) FOREIGN BOARDS OF TRADE.—

7 “(1) IN GENERAL.—The Commission may not
8 permit a foreign board of trade to provide to the
9 members of the foreign board of trade or other par-
10 ticipants located in the United States direct access
11 to the electronic trading and order matching system
12 of the foreign board of trade with respect to an
13 agreement, contract, or transaction in an energy or
14 agricultural commodity that settles against any price
15 (including the daily or final settlement price) of 1 or
16 more contracts listed for trading on a registered en-
17 tity, unless—

18 “(A) the foreign board of trade makes pub-
19 lic daily trading information regarding the
20 agreement, contract, or transaction that is com-
21 parable to the daily trading information pub-
22 lished by the registered entity for the 1 or more
23 contracts against which the agreement, con-
24 tract, or transaction traded on the foreign
25 board of trade settles; and

1 “(B) the foreign board of trade (or the for-
2 eign futures authority that oversees the foreign
3 board of trade)—

4 “(i) adopts position limits (including
5 related hedge exemption provisions) for the
6 agreement, contract, or transaction that
7 are comparable, taking into consideration
8 the relative sizes of the respective markets,
9 to the position limits (including related
10 hedge exemption provisions) adopted by
11 the registered entity for the 1 or more con-
12 tracts against which the agreement, con-
13 tract, or transaction traded on the foreign
14 board of trade settles;

15 “(ii) has the authority to require or
16 direct market participants to limit, reduce,
17 or liquidate any position the foreign board
18 of trade (or the foreign futures authority
19 that oversees the foreign board of trade)
20 determines to be necessary to prevent or
21 reduce the threat of price manipulation,
22 excessive speculation as described in sec-
23 tion 4a, price distortion, or disruption of
24 delivery or the cash settlement process;

1 “(iii) agrees to promptly notify the
2 Commission of any change regarding—

3 “(I) the information that the for-
4 eign board of trade will make publicly
5 available;

6 “(II) the position limits that the
7 foreign board of trade or foreign fu-
8 tures authority will adopt and enforce;

9 “(III) the position reductions re-
10 quired to prevent manipulation, exces-
11 sive speculation as described in sec-
12 tion 4a, price distortion, or disruption
13 of delivery or the cash settlement
14 process; and

15 “(IV) any other area of interest
16 expressed by the Commission to the
17 foreign board of trade or foreign fu-
18 tures authority;

19 “(iv) provides information to the
20 Commission regarding large trader posi-
21 tions in the agreement, contract, or trans-
22 action that is comparable to the large trad-
23 er position information collected by the
24 Commission for the 1 or more contracts
25 against which the agreement, contract, or

1 transaction traded on the foreign board of
2 trade settles; and

3 “(v) provides the Commission with in-
4 formation necessary to publish reports on
5 aggregate trader positions for the agree-
6 ment, contract, or transaction traded on
7 the foreign board of trade that are com-
8 parable to such reports for 1 or more con-
9 tracts against which the agreement, con-
10 tract, or transaction traded on the foreign
11 board of trade settles.

12 “(2) EXISTING FOREIGN BOARDS OF TRADE.—
13 Paragraph (1) shall not be effective with respect to
14 any agreement, contract, or transaction in an energy
15 commodity executed on a foreign board of trade to
16 which the Commission had granted direct access
17 permission before the date of the enactment of this
18 subsection until the date that is 180 days after such
19 date of enactment.”.

20 (b) LIABILITY OF REGISTERED PERSONS TRADING
21 ON A FOREIGN BOARD OF TRADE.—

22 (1) Section 4(a) of such Act (7 U.S.C. 6(a)) is
23 amended by inserting “or by subsection (f)” after
24 “Unless exempted by the Commission pursuant to
25 subsection (c)”.

1 (2) Section 4 of such Act (7 U.S.C. 6) is fur-
2 ther amended by adding at the end the following:

3 “(f) A person registered with the Commission, or ex-
4 empt from registration by the Commission, under this Act
5 may not be found to have violated subsection (a) with re-
6 spect to a transaction in, or in connection with, a contract
7 of sale of a commodity for future delivery if the person
8 has reason to believe the transaction and the contract is
9 made on or subject to the rules of a board of trade that
10 is legally organized under the laws of a foreign country,
11 authorized to act as a board of trade by a foreign futures
12 authority, subject to regulation by the foreign futures au-
13 thority, and has not been determined by the Commission
14 to be operating in violation of subsection (a).”.

15 (c) CONTRACT ENFORCEMENT FOR FOREIGN FU-
16 TURES CONTRACTS.—Section 22(a) of such Act (7 U.S.C.
17 25(a)) is amended by adding at the end the following:

18 “(5) A contract of sale of a commodity for fu-
19 ture delivery traded or executed on or through the
20 facilities of a board of trade, exchange, or market lo-
21 cated outside the United States for purposes of sec-
22 tion 4(a) shall not be void, voidable, or unenforce-
23 able, and a party to such a contract shall not be en-
24 titled to rescind or recover any payment made with
25 respect to the contract, based on the failure of the

1 foreign board of trade to comply with any provision
2 of this Act.”.

3 **SEC. 5. DISAGGREGATION OF INDEX FUNDS AND OTHER**
4 **DATA IN ENERGY AND AGRICULTURE MAR-**
5 **KETS.**

6 Section 4 of the Commodity Exchange Act (7 U.S.C.
7 6), as amended by section 4 of this Act, is amended by
8 adding at the end the following:

9 “(g) DISAGGREGATION OF INDEX FUNDS AND
10 OTHER DATA IN ENERGY AND AGRICULTURE MAR-
11 KETS.—Subject to section 8 and beginning within 30 days
12 of the issuance of the final rule required by section 4h,
13 the Commission shall disaggregate and make public week-
14 ly—

15 “(1) the number of positions and total value of
16 index funds and other passive, long-only and short-
17 only positions (as defined by the Commission) in all
18 energy and agricultural markets to the extent such
19 information is available; and

20 “(2) data on speculative positions relative to
21 bona fide physical hedgers in those markets to the
22 extent such information is available.”.

1 **SEC. 6. DETAILED REPORTING FROM INDEX TRADERS AND**
2 **SWAP DEALERS.**

3 Section 4 of the Commodity Exchange Act (7 U.S.C.
4 6), as amended by sections 4 and 5 of this Act, is amended
5 by adding at the end the following:

6 “(h) INDEX TRADERS AND SWAP DEALERS REPORT-
7 ING.—The Commission shall issue a proposed rule defin-
8 ing and classifying index traders and swap dealers (as
9 those terms are defined by the Commission) for purposes
10 of data reporting requirements and setting routine de-
11 tailed reporting requirements for such entities in des-
12 ignated contract markets, derivatives transaction execu-
13 tion facilities, foreign boards of trade subject to section
14 4(e), and electronic trading facilities with respect to sig-
15 nificant price discovery contracts with respect to exempt
16 and agricultural commodities not later than 60 days after
17 the date of the enactment of this subsection, and issue
18 a final rule within 120 days after such date of enact-
19 ment.”.

20 **SEC. 7. TRANSPARENCY AND RECORDKEEPING AUTHORI-**
21 **TIES.**

22 (a) IN GENERAL.—Section 4g(a) of the Commodity
23 Exchange Act (7 U.S.C. 6g(a)) is amended—

24 (1) by inserting “a” before “futures commission
25 merchant”; and

1 (2) by inserting “and transactions and positions
2 traded pursuant to subsection (g), (h)(1), or (h)(2)
3 of section 2, or any exemption issued by the Com-
4 mission by rule, regulation or order,” after “United
5 States or elsewhere,”.

6 (b) REPORTS OF DEALS EQUAL TO OR IN EXCESS
7 OF TRADING LIMITS.—Section 4i of such Act (7 U.S.C.
8 6i) is amended—

9 (1) in the first sentence—

10 (A) by inserting “(a)” before “It shall”;

11 and

12 (B) by inserting “in the United States or
13 elsewhere, and of transactions and positions in
14 any such commodity entered into pursuant to
15 subsection (g), (h)(1), or (h)(2) of section 2, or
16 any exemption issued by the Commission by
17 rule, regulation or order” before “, and of cash
18 or spot”; and

19 (2) by striking all that follows the 1st sentence
20 and inserting the following:

21 “(b) With respect to agricultural and energy com-
22 modities, upon special call by the Commission, any person
23 shall provide to the Commission, in a form and manner
24 and within the period specified in the special call, books
25 and records of all transactions and positions traded on or

1 subject to the rules of any board of trade or electronic
2 trading facility in the United States or elsewhere, or pur-
3 suant to subsection (g), (h)(1), or (h)(2) of section 2, or
4 any exemption issued by the Commission by rule, regula-
5 tion, or order, as the Commission may determine appro-
6 priate to deter and prevent price manipulation or any
7 other disruption to market integrity or to diminish, elimi-
8 nate, or prevent excessive speculation as described in sec-
9 tion 4a(a).

10 “(c) Such books and records described in subsections
11 (a) and (b) shall show complete details concerning all such
12 transactions, positions, inventories, and commitments, in-
13 cluding the names and addresses of all persons having any
14 interest therein, shall be kept for a period of 5 years, and
15 shall be open at all times to inspection by any representa-
16 tive of the Commission or the Department of Justice. For
17 the purposes of this section, the futures and cash or spot
18 transactions and positions of any person shall include such
19 transactions and positions of any persons directly or indi-
20 rectly controlled by the person.”.

21 (c) CONFORMING AMENDMENTS.—

22 (1) Section 2(g) of such Act (7 U.S.C. 2(g)) is
23 amended—

24 (A) by inserting “4g(a), 4i,” before “5a
25 (to”;

1 (B) by inserting “, and the regulations of
2 the Commission pursuant to section 4c(b) re-
3 quiring reporting in connection with commodity
4 option transactions,” before “shall apply”.

5 (2) Section 2(h)(2)(A) of such Act (7 U.S.C.
6 2(h)(2)(A)) is amended to read as follows:

7 “(A) sections 4g(a), 4i, 5b and
8 12(e)(2)(B), and the regulations of the Com-
9 mission pursuant to section 4c(b) requiring re-
10 porting in connection with commodity option
11 transactions;”.

12 **SEC. 8. TRADING LIMITS TO PREVENT EXCESSIVE SPECU-**
13 **LATION.**

14 Section 4a of the Commodity Exchange Act (7 U.S.C.
15 6a) is amended—

16 (1) in subsection (a)—

17 (A) by inserting “(1)” after “(a)”; and

18 (B) by adding after and below the end the
19 following:

20 “(2) In accordance with the standards set forth in
21 paragraph (1) of this subsection and consistent with the
22 good faith exception cited in subsection (b)(2), with re-
23 spect to agricultural commodities enumerated in section
24 1a(4) and energy commodities, the Commission, within 60
25 days after the date of the enactment of this paragraph,

1 shall by rule, regulation, or order establish limits on the
2 amount of positions that may be held by any person with
3 respect to contracts of sale for future delivery or with re-
4 spect to options on such contracts or commodities traded
5 on or subject to the rules of a contract market or deriva-
6 tives transaction execution facility, or on an electronic
7 trading facility as a significant price discovery contract.

8 “(3) In establishing the limits required in paragraph
9 (2), the Commission shall set limits—

10 “(A) on the number of positions that may be
11 held by any person for the spot month, each other
12 month, and the aggregate number of positions that
13 may be held by any person for all months;

14 “(B) to the maximum extent practicable, in its
15 discretion—

16 “(i) to diminish, eliminate, or prevent ex-
17 cessive speculation as described under this sec-
18 tion;

19 “(ii) to deter and prevent market manipu-
20 lation, squeezes, and corners;

21 “(iii) to ensure sufficient market liquidity
22 for bona fide hedgers; and

23 “(iv) to ensure that the price discovery
24 function of the underlying market is not dis-
25 rupted; and

1 “(C) to the maximum extent practicable, in its
2 discretion, take into account the total number of po-
3 sitions in fungible agreements, contracts, or trans-
4 actions that a person can hold in agricultural and
5 energy commodities in other markets.

6 “(4)(A) Not later than 150 days after the date of
7 the enactment of this paragraph, the Commission shall
8 convene a Position Limit Agricultural Advisory Group and
9 a Position Limit Energy Group, each group consisting of
10 representatives from—

11 “(i) 5 predominantly commercial short hedgers
12 of the actual physical commodity for future delivery;

13 “(ii) 5 predominantly commercial long hedgers
14 of the actual physical commodity for future delivery;

15 “(iii) 4 non-commercial participants in markets
16 for commodities for future delivery; and

17 “(iv) each designated contract market or de-
18 rivatives transaction execution facility upon which a
19 contract in the commodity for future delivery is
20 traded, and each electronic trading facility that has
21 a significant price discovery contract in the com-
22 modity.

23 “(B) Not later than 60 days after the date on which
24 the advisory groups are convened under subparagraph (A),
25 and annually thereafter, the advisory groups shall submit

1 to the Commission advisory recommendations regarding
2 the position limits to be established in paragraph (2) and
3 a recommendation as to whether the position limits should
4 be administered directly by the Commission, or by the reg-
5 istered entity on which the commodity is listed (with en-
6 forcement by both the registered entity and the Commis-
7 sion).”; and

8 (2) in subsection (c)—

9 (A) by inserting “(1)” after “(c)”; and

10 (B) by adding after and below the end the
11 following:

12 “(2) With respect to agricultural and energy com-
13 modities, for the purposes of contracts of sale for future
14 delivery and options on such contracts or commodities, a
15 bona fide hedging transaction or position is a transaction
16 or position that—

17 “(A)(i) represents a substitute for transactions
18 to be made or positions to be taken at a later time
19 in a physical marketing channel;

20 “(ii) is economically appropriate to the reduc-
21 tion of risks in the conduct and management of a
22 commercial enterprise; and

23 “(iii) arises from the potential change in the
24 value of—

1 “(I) assets that a person owns, produces,
2 manufactures, processes, or merchandises or
3 anticipates owning, producing, manufacturing,
4 processing, or merchandising;

5 “(II) liabilities that a person owns or an-
6 ticipates incurring; or

7 “(III) services that a person provides, pur-
8 chases, or anticipates providing or purchasing;
9 or

10 “(B) reduces risks attendant to a position re-
11 sulting from a transaction that—

12 “(i) was executed pursuant to subsection
13 (g), (h)(1), or (h)(2) of section 2, or an exemp-
14 tion issued by the Commission by rule, regula-
15 tion or order; and

16 “(ii) was executed opposite a counterparty
17 for which the transaction would qualify as a
18 bona fide hedging transaction pursuant to para-
19 graph (2)(A) of this subsection.”.

20 **SEC. 9. MODIFICATIONS TO CORE PRINCIPLES APPLICABLE**
21 **TO POSITION LIMITS FOR CONTRACTS IN AG-**
22 **RICULTURAL AND ENERGY COMMODITIES.**

23 (a) **CONTRACTS TRADED ON CONTRACT MARKETS.—**
24 Section 5(d)(5) of the Commodity Exchange Act (7 U.S.C.
25 7(d)(5)) is amended by striking all that follows “adopt”

1 and inserting “, for speculators, position limitations with
2 respect to agricultural commodities enumerated in section
3 1a(4) or energy commodities, and position limitations or
4 position accountability with respect to other commodities,
5 where necessary and appropriate.”.

6 (b) CONTRACTS TRADED ON DERIVATIVES TRANS-
7 ACTION EXECUTION FACILITIES.—Section 5a(d)(4) of
8 such Act (7 U.S.C. 7a(d)(4)) is amended by striking all
9 that follows “adopt” and inserting “, for speculators, posi-
10 tion limitations with respect to energy commodities, and
11 position limitations or position accountability with respect
12 to other commodities, where necessary and appropriate for
13 a contract, agreement or transaction with an underlying
14 commodity that has a physically deliverable supply.”.

15 (c) SIGNIFICANT PRICE DISCOVERY CONTRACTS.—
16 Section 2(h)(7)(C)(ii)(IV) of such Act (7 U.S.C.
17 2(h)(7)(C)(ii)(IV)) is amended by striking “where nec-
18 essary” and all that follows through “in significant price
19 discovery contracts” and inserting “for speculators, posi-
20 tion limitations with respect to significant price discovery
21 contracts in energy commodities, and position limitations
22 or position accountability with respect to significant price
23 discovery contracts in other commodities”.

1 **SEC. 10. CFTC ADMINISTRATION.**

2 (a) ADDITIONAL COMMODITY FUTURES TRADING
3 COMMISSION EMPLOYEES FOR IMPROVED ENFORCE-
4 MENT.—Section 2(a)(7) of the Commodity Exchange Act
5 (7 U.S.C. 2(a)(7)) is amended by adding at the end the
6 following:

7 “(D) ADDITIONAL EMPLOYEES.—As soon
8 as practicable after the date of the enactment
9 of this subparagraph, subject to appropriations,
10 the Commission shall appoint at least 100 full-
11 time employees (in addition to the employees
12 employed by the Commission as of the date of
13 the enactment of this subparagraph)—

14 “(i) to increase the public trans-
15 parency of operations in agriculture and
16 energy markets;

17 “(ii) to improve the enforcement of
18 this Act in those markets; and

19 “(iii) to carry out such other duties as
20 are prescribed by the Commission.”.

21 (b) INSPECTOR GENERAL OF COMMODITY FUTURES
22 TRADING COMMISSION.—

23 (1) ELEVATION OF OFFICE.—

24 (A) INCLUSION OF CFTC IN DEFINITION OF
25 ESTABLISHMENT.—Section 11(2) of the Inspec-
26 tor General Act of 1878 (5 U.S.C. App.) is

1 amended by striking “or the Export-Import
2 Bank,” and inserting “, the Export-Import
3 Bank, or the Commodity Futures Trading
4 Commission,”.

5 (B) EXCLUSION OF CFTC FROM DEFINI-
6 TION OF DESIGNATED FEDERAL ENTITY.—Sec-
7 tion 8G(a)(2) of such Act (5 U.S.C. App.) is
8 amended by striking “the Commodity Futures
9 Trading Commission,”.

10 (2) TRANSITION.—Until such time as the In-
11 specter General of the Commodity Futures Trading
12 Commission is appointed in accordance with section
13 3 of the Inspector General Act of 1978, the Office
14 of Inspector General of the Commission shall con-
15 tinue in effect as provided in such Act before the
16 date of the enactment of this Act.

17 **SEC. 11. REVIEW OF PRIOR ACTIONS.**

18 Notwithstanding any other provision of the Com-
19 modity Exchange Act, the Commodity Futures Trading
20 Commission shall review, as appropriate, all regulations,
21 rules, exemptions, exclusions, guidance, no action letters,
22 orders, other actions taken by or on behalf of the Commis-
23 sion, and any action taken pursuant to the Commodity
24 Exchange Act by an exchange, self-regulatory organiza-
25 tion, or any other registered entity, that are currently in

1 effect, to ensure that such prior actions are in compliance
2 with the provisions of this Act.

3 **SEC. 12. REVIEW OF OVER-THE-COUNTER MARKETS.**

4 (a) STUDY.—The Commodity Futures Trading Com-
5 mission shall conduct a study—

6 (1) to determine the efficacy, practicality, and
7 consequences of establishing position limits for
8 agreements, contracts, or transactions conducted in
9 reliance on sections 2(g) and 2(h) of the Commodity
10 Exchange Act and of any exemption issued by the
11 Commission by rule, regulation or order, as a means
12 to deter and prevent price manipulation or any other
13 disruption to market integrity or to diminish, elimi-
14 nate, or prevent excessive speculation as described in
15 section 4a of such Act for physical-based commod-
16 ities; and

17 (2) to determine the efficacy, practicality, and
18 consequences of establishing aggregate position lim-
19 its for similar agreements, contracts, or transactions
20 for physical-based commodities traded—

21 (A) on designated contract markets;

22 (B) on derivatives transaction execution fa-
23 cilities; and

1 (C) in reliance on such sections 2(g) and
2 2(h) and of any exemption issued by the Com-
3 mission by rule, regulation or order.

4 (b) PUBLIC HEARINGS.—The Commission shall pro-
5 vide for not less than 2 public hearings to take testimony,
6 on the record, as part of the fact- gathering process in
7 preparation of the report.

8 (c) REPORT AND RECOMMENDATIONS.—Not less
9 than 12 months after the date of the enactment of this
10 section, the Commission shall provide to the Committee
11 on Agriculture of the House of Representatives and the
12 Committee on Agriculture, Nutrition, and Forestry of the
13 Senate a report that—

14 (1) describes the results of the study; and

15 (2) provides recommendations on any actions
16 necessary to deter and prevent price manipulation or
17 any other disruption to market integrity or to dimin-
18 ish, eliminate, or prevent excessive speculation as de-
19 scribed in section 4a of the Commodity Exchange
20 Act for physical-based commodities, including—

21 (A) any additional statutory authority that
22 the Commission determines to be necessary to
23 implement the recommendations; and

1 (B) a description of the resources that the
2 Commission considers to be necessary to imple-
3 ment the recommendations.

4 **SEC. 13. STUDIES; REPORTS.**

5 (a) STUDY RELATING TO INTERNATIONAL REGULA-
6 TION OF ENERGY COMMODITY MARKETS.—

7 (1) IN GENERAL.—The Comptroller General of
8 the United States shall conduct a study of the inter-
9 national regime for regulating the trading of energy
10 commodity futures and derivatives.

11 (2) ANALYSIS.—The study shall include an
12 analysis of, at a minimum—

13 (A) key common features and differences
14 among countries in the regulation of energy
15 commodity trading, including with respect to
16 market oversight and enforcement standards
17 and activities;

18 (B) variations among countries with re-
19 spect to the use of position limits, position ac-
20 countability levels, or other thresholds to detect
21 and prevent price manipulation, excessive spec-
22 ulation as described in section 4a of the Com-
23 modity Exchange Act, or other unfair trading
24 practices;

1 (C) variations in practices regarding the
2 differentiation of commercial and noncommer-
3 cial trading;

4 (D) agreements and practices for sharing
5 market and trading data among futures au-
6 thorities and between futures authorities and
7 the entities that the futures authorities oversee;
8 and

9 (E) agreements and practices for facili-
10 tating international cooperation on market over-
11 sight, compliance, and enforcement.

12 (3) REPORT.—Not later than 1 year after the
13 date of the enactment of this Act, the Comptroller
14 General shall submit to the Committee on Agri-
15 culture of the House of Representatives and the
16 Committee on Agriculture, Nutrition, and Forestry
17 of the Senate a report that—

18 (A) describes the results of the study;

19 (B) addresses whether there is excessive
20 speculation, and if so, the effects of any such
21 speculation and energy price volatility on energy
22 futures; and

23 (C) provides recommendations to improve
24 openness, transparency, and other necessary
25 elements of a properly functioning market in a

1 manner that protects consumers in the United
2 States.

3 (b) STUDY RELATING TO EFFECTS OF SPECULATORS
4 ON AGRICULTURE AND ENERGY FUTURES MARKETS AND
5 AGRICULTURE AND ENERGY PRICES.—

6 (1) STUDY.—The Comptroller General of the
7 United States shall conduct a study of the effects of
8 speculators on agriculture and energy futures mar-
9 kets and agriculture and energy prices.

10 (2) ANALYSIS.—The study shall include an
11 analysis of, at a minimum—

12 (A) the effect of increased amounts of cap-
13 ital in agriculture and energy futures markets;

14 (B) the impact of the roll-over of positions
15 by index fund traders and swap dealers on agri-
16 culture and energy futures markets and agri-
17 culture and energy prices; and

18 (C) the extent to which each factor de-
19 scribed in subparagraphs (A) and (B) and spec-
20 ulators—

21 (i) affect—

22 (I) the pricing of agriculture and
23 energy commodities; and

24 (II) risk management functions;
25 and

1 (ii) contribute to economically efficient
2 price discovery.

3 (3) REPORT.—Not later than 2 years after the
4 date of the enactment of this Act, the Comptroller
5 General shall submit to the Committee on Agri-
6 culture of the House of Representatives and the
7 Committee on Agriculture, Nutrition, and Forestry
8 of the Senate a report that describes the results of
9 the study.

10 **SEC. 14. OVER-THE-COUNTER AUTHORITY.**

11 (a) IN GENERAL.—Section 2 of the Commodity Ex-
12 change Act (7 U.S.C. 2) is amended by adding at the end
13 the following:

14 “(j) OVER-THE-COUNTER AUTHORITY.—

15 “(1) Within 60 days after the date of the enact-
16 ment of this subsection, the Commission shall, by
17 rule, regulation, or order, require routine reporting
18 as it deems in its discretion appropriate, on not less
19 than a monthly basis, of agreements, contracts, or
20 transactions, with regard to an agricultural or en-
21 ergy commodity, entered into in reliance on sub-
22 section (g), (h)(1), or (h)(2) of section 2, or any ex-
23 emption issued by the Commission by rule, regula-
24 tion, or order that are fungible (as defined by the
25 Commission) with agreements, contracts, or trans-

1 actions traded on or subject to the rules of any
2 board of trade or of any electronic trading facility
3 with respect to a significant price discovery contract.

4 “(2) Notwithstanding subsections (g), (h)(1),
5 and (h)(2) of section 2, and any exemption issued by
6 the Commission by rule, regulation, or order, the
7 Commission shall assess and issue a finding on
8 whether the agreements, contracts, or transactions
9 reported pursuant to paragraph (1), alone or in con-
10 junction with other similar agreements, contracts, or
11 transactions, have the potential to—

12 “(A) disrupt the liquidity or price dis-
13 covery function on a registered entity;

14 “(B) cause a severe market disturbance in
15 the underlying cash or futures market for an
16 agricultural or energy commodity; or

17 “(C) prevent or otherwise impair the price
18 of a contract listed for trading on a registered
19 entity from reflecting the forces of supply and
20 demand in any market for an agricultural com-
21 modity enumerated in section 1a(4) or an en-
22 ergy commodity.

23 “(3) If the Commission makes a finding pursu-
24 ant to paragraph (2) of this subsection, the Commis-
25 sion may, in its discretion, utilize its authority under

1 section 8a(9) to impose position limits for specu-
2 lators on the agreements, contracts, or transactions
3 involved and take corrective actions to enforce the
4 limits.”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 2(g) of such Act (7 U.S.C. 2(g)) is
7 amended by inserting “subsection (j) of this section,
8 and” after “(other than”.

9 (2) Section 2(h)(2)(A) of such Act (7 U.S.C.
10 2(h)(2)(A)) is amended by inserting “subsection (j)
11 of this section and” before “sections”.

12 (3) Section 8a(9) of such Act (7 U.S.C.
13 12a(a)(9)) is amended by inserting after “of the
14 Commission’s action” the following: “, and to fix
15 and enforce limits to agreements, contracts, or
16 transaction subject to section 2(j)(1) pursuant to a
17 finding made under section 2(j)(2)”.

18 **SEC. 15. EXPEDITED PROCESS.**

19 The Commodity Futures Trading Commission may
20 use emergency and expedited procedures (including any
21 administrative or other procedure as appropriate) to carry
22 out this Act if, in its discretion, it deems it necessary to
23 do so.

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